



May 3, 2001

Mr. Rene Ruiz
Matthews & Branscomb
112 East Pecan Suite 1100
San Antonio, Texas 78205

OR2001-1809

Dear Mr. Ruiz:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 146726.

The City of San Antonio (the "city"), which you represent, received a request for the following information:

copies of the building permits required to be maintained under Section 60.3 of the National Flood Insurance Program for the AE flood zone of Panel 461 and 453 of 900, Maps Nos. 48029C4061 E and 48029C0453, effective date February 16, 1966 of the Firm Flood Insurance Rate Map, Bexar County, Texas and Incorporated Areas.

You have submitted for our review a representative sample of the information responsive to the request.¹ You state that this office issued a previous ruling on the required public disclosure of the requested information. *See* Open Records Letter No. 2001-0176 (2001). In addition, you assert that the requested information is excepted from disclosure under section 552.103 of the Government Code. The requestor has also submitted comments to

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

this office. *See* Gov't Code § 552.304. We have considered the city's arguments, and have reviewed the requestor's comments and the submitted representative samples of information.

At the outset, we address whether this office has issued a previous determination on the required public disclosure of the requested information. Under section 552.301, generally, a government body must ask this office for a ruling whenever the government body seeks to withhold information responsive to a request. However, where there exists a previous determination, a government body is not required to ask this office for a decision and may instead withhold the information in accordance with the previous determination. The attorney general has identified two types of previous determinations, but only one is relevant here and will be discussed. *See* Open Records Decision No. 673 at 10 (2001). That type exists where the law, the facts, and the circumstances on which the ruling was based have not changed, where the requested information is precisely the same information as was addressed in the prior attorney general ruling, where the ruling is addressed to the same governmental body, and where the ruling concludes that the information is or is not excepted from disclosure. *Id.*

You represent that the responsive information is "the same or included in the information previously requested" in Open Records Letter 2001-0176. Furthermore, we have no information to require us to conclude that the law, the facts, or the circumstances on which the ruling was based have changed. Therefore, we conclude that the city may rely on Open Records Letter 2001-0176 as a previous determination to withhold the requested information in accordance with that ruling. In light of our conclusion, we need not address your section 552.103 arguments.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the

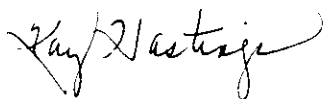
governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Kay Hastings
Assistant Attorney General
Open Records Division

KH/LKM/seg

Ref: ID# 146726

Encl. Submitted documents

cc: Mr. John Schaefer
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(w/o enclosures)